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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/635,073	08/09/2000	Nishanthan M.T. Perinpanathan	91436-262	5647

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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO, ON M5G2K8
CANADA

EXAMINER

MOORE JR, MICHAEL J

ART UNIT	PAPER NUMBER
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2666

DATE MAILED: 01/13/2004

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/635,073

Applicant(s)

PERINPANATHAN ET AL.

Examiner

Michael J Moore, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 37-39 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18,20-23, and 25-30 is/are allowed.
- 6) ☒ Claim(s) 1-5,7-17,19,24 and 31-36 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☒ Claim(s) 1-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 4
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims **1-36** are classified in class 370, subclass 395.2 (Connection Admission Control).
 - II. Claims **37-39** are classified in class 370, subclass 465 (Adaptive Systems).
2. Inventions II and I are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as in adaptive systems once a connection is already established. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Ronald D. Faggetter on December 23, 2003, a provisional election was made with traverse to prosecute the invention of group I, claims 1-36. Affirmation of this election must be made by applicant in replying to this Office action. Claims **37-39** are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

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or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

6. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01. The embedded hyperlink is located in the specification on page 9, line 10.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims **12, 17, 19, and 24** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim **12** recites the limitation "said costs" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim **17** recites the limitation "said network address" in line 22. There is insufficient antecedent basis for this limitation in the claim.

Claim **19** recites the limitation "said receiving confirmation" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim **24** recites the limitation "said second MG" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims **1-5, 7-16, and 31-36** are rejected under 35 U.S.C. 102(e) as being anticipated by Cloonan et al. (US 2001/0044845 A1). The Cloonan et al. reference discloses all of the limitations of the listed claims for the reasoning that follows.

Regarding claim 1, a method for providing a subscriber with a requested level of service on a packet network is anticipated by the method for providing “user-changeable service level changes” spoken of in paragraph 1. Storing a subscription level of service for a subscriber is anticipated by the “customer service level records stored in database 122” as stated in paragraph 17, lines 22-23. Receiving a user message requesting a differing level of service is anticipated by the “customer-originated requests” spoken of in paragraph 20, lines 4-5. Allocating resources in response to the level of service requested is anticipated by the “upgrading or downgrading of service class” spoken of in paragraph 8, lines 3-7. Lastly, subscriber data transmission and reception using the requested level of service is anticipated by the “upstream and downstream communications” spoken of in paragraph 16, lines 1-7.

Regarding claim 2, the method of claim 1 where the user message is received either directly or indirectly is anticipated by the "customer-originated requests" spoken of in paragraph 20, lines 4-5.

Regarding claim 3, the method of claim 1 where subscription level resources are allocated prior to receiving a user request is anticipated by the "class of service previously subscribed to" that is spoken of in paragraph 22, lines 4-5.

Regarding claim 4, the method of claim 1 with a cost settlement method for the requested level of service is anticipated by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11.

Regarding claim 5, the method of claim 4 where cost is allocated to either a subscriber or another station is anticipated by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11.

Regarding claim 7, the method of claim 1 where both the requested and subscribed level of service are a type of service, class of service, service priority, or bandwidth is anticipated by the "customer requested increased or decreased bandwidth" spoken of in paragraph 8, lines 7-8.

Regarding claim 8, the method of claim 1 where the user is a subscriber or another station is anticipated by the "user-changeable (subscriber) service level changes" spoken of in paragraph 1, lines 3-4.

Regarding claim 9, a method of enabling a subscriber to use resources indicative of a requested level of service is anticipated by the method for providing "user-changeable service level changes" spoken of in paragraph 1. Transmitting a request

indicative of a differing level of service is anticipated by the "subscriber service level change requests" spoken of in paragraph 8, lines 3-4. Receiving notification of allocated resources in response to a level of service request is anticipated by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11. Lastly, transmitting and receiving data using the allocated resources is anticipated by the "upstream and downstream communications" spoken of in paragraph 16, lines 1-7.

Regarding claim 10, the method of claim 9 where the transmission is in response to either a direct or indirect subscriber request is anticipated by the "customer-originated requests" spoken of in paragraph 20, lines 4-5.

Regarding claim 11, the method of claim 9 where subscription level resources are allocated prior to transmitting a request is anticipated by the "class of service previously subscribed to" that is spoken of in paragraph 22, lines 4-5.

Regarding claim 12, the method of claim 10 where the request further comprises cost settlement is anticipated by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11.

Regarding claim 13, the method of claim 9 where a service level request is transmitted by either a subscriber or another station is anticipated by the "subscriber service level change requests" spoken of in paragraph 8, lines 3-4.

Regarding claim 14, a method for providing communication over a packet network between a first and second station is anticipated by the packet network of Figure 1 with stations 106A to 106F. Establishing a first communication connection

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between first and second stations with a first service level is anticipated by transmission line 108 of Figure 1 connecting stations 106A and 106B through head end 104.

Establishing a second communication connection between first and second stations with a second service level is anticipated by transmission line 108 of Figure 1 connecting stations 106C and 106D through head end 104. Lastly, modifying the first connection to provide a second service level is anticipated by the "customer-originated requests" spoken of in paragraph 20, lines 4-5.

Regarding claim **15**, the method of claim **14** with cost allocation in accordance with a settlement procedure is anticipated by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11.

Regarding claim **16**, the method of claim **14** where the first connection modification is in response from either a first, second, or third station is anticipated by the "customer-originated requests" spoken of in paragraph 20, lines 4-5.

Regarding claim **31**, a method of cost allocation between a user and a packet network is anticipated by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11. Receiving a service level modification request from a station is anticipated by the "subscriber service level change requests" spoken of in paragraph 8, lines 3-4. Modification of the service level in response to a request is anticipated by the "upgrading or downgrading of customer service class" spoken of in paragraph 8, lines 6-7. Receiving a settlement procedure from a station is anticipated by the "subscriber account information" spoken of in paragraph 21, line 12. Lastly, cost allocation in accordance with the requested modification and settlement is anticipated

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by the "increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11.

Regarding claim **32**, the method of claim **31** where a station is either a user or another station is anticipated by the "user-changeable (subscriber) service level changes" spoken of in paragraph 1, lines 3-4.

Regarding claim **33**, the method of claim **31** where the settlement procedure is transmitted to a network element responsible for call detail information collection is anticipated by the service level/billing processor 130 of Figure 1. Receiving an acknowledgment of settlement procedure receipt is anticipated by the "commands forwarded from the service level/billing processor 130 to the CMTS 120" spoken of in paragraph 23, lines 2-3.

Regarding claim **34**, a method for providing communication services to a user of a packet network is anticipated by the method for providing "user-changeable service level changes" spoken of in paragraph 1. Receiving a user request indicating a service level and a settlement procedure is anticipated by the "subscriber service level change requests" spoken of in paragraph 8, lines 3-4 as well as the "subscriber account information" spoken of in paragraph 21, line 12. Determining a level of service in response to the user request is anticipated by the "upgrading or downgrading of the customer service class" spoken of in paragraph 8, lines 6-7. Resource allocation in response to the determined level of service is anticipated by the "upgrading or downgrading of the customer service class" spoken of in paragraph 8, lines 6-7. Lastly, cost allocation in accordance with the settlement procedure is anticipated by the

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"increased or decreased service charges to the customer" spoken of in paragraph 8, lines 10-11.

Regarding claim **35**, the method of claim **34** where the level of service corresponds to a type of service and a bandwidth is anticipated by the "cable data transmission" spoken of in paragraph 6 as well as the "customer requested increased or decreased bandwidth" spoken of in paragraph 8, lines 7-8.

Regarding claim **36**, the method of claim **34** where the service level is associated with a QoS parameter in layer 1, 2, or 3 is anticipated by the "customer requested increased or decreased bandwidth" spoken of in paragraph 8, lines 7-8.

Allowable Subject Matter

11. Claims **17-30** are allowed.
12. Claim **6** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ghirnikar et al. (U.S. 6,216,001), Estberg et al. (U.S. 6,148,337), Fjortoft et al. (U.S. 6,542,521), Koistinen et al. (U.S. 6,154,778), Selinger (U.S. 6,345,038), Yin et al. (U.S. 6,442,138), Bartholomew et al. (U.S. 6,292,479), Pulkka et al. (US 2003/0169751), and Chien (EP 1 113 629) are all references that contain material pertinent to this application.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Moore, Jr. whose telephone number is (703) 305-8703. The examiner can normally be reached during the hours of 8:30am - 5:00pm (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao can be reached at (703) 308-5463. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

mjm MM

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DANGLTON
PRESIDENT, DUNN